

**HOUSE . . . . . No. 1583**

---

By Mr. O'Flaherty of Chelsea, a petition (accompanied by bill, House, No. 1583) of Eugene L. O'Flaherty relative to the taking of real estate or of any interest therein by right of eminent domain. The Judiciary.

---

**The Commonwealth of Massachusetts**

PRESENTED BY:

**Eugene L. O'Flaherty**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to eminent domain.

PETITION OF:

NAME:

Eugene L. O'Flaherty

DISTRICT/ADDRESS:

2nd Suffolk

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## AN ACT RELATIVE TO EMINENT DOMAIN.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 1 of chapter 79 of the General Laws, as appearing in the most recent edition, is  
2 hereby amended by striking out section 1 and inserting in place thereof the following section:-

3 Section 1. Order of Taking; contents.

4 The taking of real estate or of any interest therein by right of eminent domain may be effected in the following  
5 manner. A board of officers upon whom authority to take real estate by eminent domain on behalf of any body  
6 politic or corporate has been conferred by law, having first complied with all the preliminary requirements  
7 prescribed by law, may adopt an order of taking, which shall contain a description of the land taken sufficiently  
8 accurate for identification, and shall state the interest therein taken and the purpose for which such property is taken,  
9 and shall contain the names and addresses of the putative owners of all land taken as shown on the records of the  
10 assessors of the municipality in which such land is taken as of the January first immediately preceding the municipal  
11 fiscal year in which such land is taken, and in case such taking is for an improvement for which betterments may be  
12 assessed, shall state whether betterments are to be assessed therefor. In case there are trees upon the land taken, or  
13 structures affixed thereto, the order of taking shall state whether the same are to be included in the taking, and, if  
14 they are not so included, shall allow the owner a reasonable time after the date of the order or after entry or  
15 possession to remove the same, to be specified in the order. The failure to include the names and addresses of one  
16 or more of said owners of the land taken as provided for in the preceding sentence, or the incorrect identification of

17 any such owner, shall not affect the validity of the taking. The naming of a putative owner in an order of taking  
18 shall not constitute evidence of any ownership interest; or otherwise relieve any owner of the burden of proving the  
19 right to damages in an action under this chapter.

20 SECTION 2. This act shall take effect upon its passage.